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EXAMINER

NGUYEN, PHUNG

ART UNIT

PAPER NUMBER

2632

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Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Paper No. 11

Application Number: 09/772,274  
Filing Date: January 29, 2001  
Appellant(s): BANAS, PATRICK A.

**MAILED**

JUL 3 0 2002

Technology Center 2600

Karin H. Butchko  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 05/22/02.

**(1) *Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

**(2) *Related Appeals and Interferences***

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

**(3) *Status of Claims***

The statement of the status of the claims contained in the brief is correct.

**(4) *Status of Amendments After Final***

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) *Summary of Invention***

The summary of invention contained in the brief is correct.

**(6) *Issues***

The appellant's statement of the issues in the brief is correct.

**(7) *Grouping of Claims***

Appellant's brief includes a statement that claims 19-21 do not stand or fall together and claims 22-24 do not stand or fall together and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8). The claims are discussed on page 3 of Appellant's brief.

**(8) *Claims Appealed***

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(9) *Prior Art of Record***

5,488,353	Kawakami et al.	01/96
5,813,989	Saitoh et al.	09/98

5,910,773

Brownlee

06/99

**(10) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 19-24 are rejected under 35 U.S.C. 103(a). This rejection is set forth in prior Office Action, Paper No. 6. For the above reasons, it is believed that the rejections should be sustained.

The rejections are hereby reproduced for convenience.

Claims 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawakami et al. [U.S. Pat. 5,488,353] in view of Saitoh et al. [U.S. Pat. 5,813,989]

**Regarding claim 19:** Kawakami et al. disclose an apparatus and method for improving the awareness of vehicle drivers comprising the tactile warning 26, visual warning 28, auditory warning 29 to determine different level of awareness of the driver (figure 1, col. 21, lines 59-67, and col. 22, lines 1-16). Kawakami et al. fail to disclose lowering a temperature in a vehicle cab in response to an increase in a level of drowsiness as claimed. However, Saitoh et al. disclose a driving mental condition detecting apparatus comprising the air conditioner system 2 (figure 1, col. 2, lines 49-64, and col. 9, lines 29-37) for lowering a temperature in the vehicle cab in response to an increase in a level of drowsiness. Therefore, it would have been obvious to one of ordinary skill in the art to implement the technique of Saitoh et al. in the system of Kawakami et al. for lowering a temperature in the interior space of a vehicle in order to alert the driver who is determined to be unaware which is an advantage.

**Regarding claim 20:** Saitoh et al. disclose the climate control system in the form of the air conditioner 2 (figure 1, col. 2, lines 49-50) for lowering the temperature.

**Regarding claim 21:** Saitoh et al. disclose the step of lowering the temperature in the vehicle cab occurs when a predetermined level of drowsiness is monitored (col. 9, lines 9-15, and lines 29-35).

Claims 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawakami et al. in view of Brownlee [U.S. Pat. 5,910,773]

**Regarding claim 22:** Kawakami et al. disclose an apparatus and method for improving the awareness of vehicle drivers comprising the tactile warning 26, visual warning 28, auditory warning 29 to determine different level of awareness of the driver (figure 1, col. 21, lines 59-67, and col. 22, lines 1-16). The device of Kawakami et al. does not disclose alerting the driver includes pumping an amount of oxygen into an interior space of a vehicle. However, Brownlee discloses an oxygen supply system for wheeled vehicles comprising the system 20 (figure 1, col. 3, lines 9-51) to alert the driver by pumping the amount of oxygen into the interior space of a vehicle. Therefore, it would have been obvious to the skilled artisan to use the oxygen generating system 20 of Brownlee in the device of Kawakami et al. because improving the percentage of oxygen in the interior space of a vehicle would alert the drowsy driver so that the number of accidents caused by drowsy drivers can be reduced.

**Regarding claim 23:** Brownlee discloses the climate control system 20 (figure 1, col. 2, lines 40-46) for pumping the amount of oxygen to the passenger compartment.

**Regarding claim 24:** Brownlee discloses the step of pumping the amount of oxygen into the vehicle cab (col. 3, lines 21-26), plus the consideration of claim 22 above.

**(11) Response to Argument**

Applicant's Argument:

a. Applicant argues that Kawakami does not awaken the driver by altering conditions in the vehicle passenger compartment but rather only produces a terminable warning. If the cooling system of Saitoh was employed in Kawakami, the cool air would not provide a terminable warning that requires a reaction by the driver.

b. Brownlee does not disclose a system that pumps oxygen into a passenger compartment based on a driver's condition but rather discloses a system that pumps oxygen into a passenger compartment in response to a drop in oxygen content in the passenger compartment below a predetermined percent, such as 20% by volume.

Response to Argument:

a. Kawakami et al. disclose the tactile warning 26, visual warning 28, auditory warning 29 to determine different level of awareness of the driver (figure 1, col. 21, lines 59-67, and col. 22, lines 1-16). Saitoh et al. teach altering the temperature in the room of the vehicle (col. 2, lines 49-64, and col. 9, lines 29-37). Examiner agrees that Kawakami et al. do not awaken the driver by altering conditions in the vehicle passenger compartment. However, Saitoh et al. specifically teach that the rising temperature contributes sleepiness to the driver and hence reducing the temperature in order to overcome such dangerous driving condition. Therefore, one ordinary skilled in the art would have clearly recognized that the combination of Kawakami et al. which detects the awareness of the driver and Saitoh et al. which alters environment condition in anticipation of potential driver fatigue condition is proper for assisting the driver to prevent the fatigue by changing temperature in the vehicle passenger compartment.

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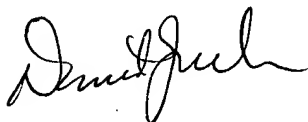
b. Examiner agrees that Brownlee does not disclose a system that pumps oxygen into a passenger compartment based on a driver's condition. However, as mentioned above, the Kawakami et al. reference discloses the system for detecting the physical condition of the driver and Brownlee teaches supplying gaseous oxygen to the passenger compartment in anticipation of sleepy drivers. Therefore, it would have been obvious to the skilled artisan to utilize the teaching of Brownlee in the system of Kawakami et al. in order to prevent the drivers from sleepiness.

Respectfully submitted,

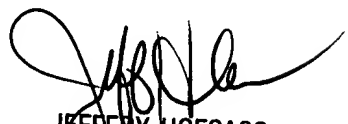
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July 26, 2002

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